



March 1, 2000

Mr. Larry W. Schenk
City Attorney
The City of Paris
P. O. Box 9037
Paris, Texas 75461-9037

OR2000-0804

Dear Mr. Schenk:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Texas Government Code. Your request was assigned ID#133445.

The City of Paris Police Department received a request for an incident report. You claim the requested information is excepted from disclosure under sections 552.101, 552.103, and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You first contend that the requested material is excepted from disclosure under section 552.101 of the Government Code because the victim of this offense is a child. As explained in Open Records Decision No. 628 (1994), except in the instance of serious sexual assaults, the records of juvenile victims do not generally enjoy any special exemption from disclosure. We stated that, in limited circumstances, constitutional privacy may protect the identities of juvenile victims of other types of crimes or accidents.

You assert the requested information is protected by common law privacy. Under section 552.101, information may be withheld on the basis of common law privacy if it is highly intimate or embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and there is no legitimate public interest in its disclosure. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976); Open Records Decision Nos. 579 at 2 (1990), 438 at 6 (1986), 339 at 2 (1982). We have reviewed the submitted information and conclude that it is not highly intimate or embarrassing. Therefore, you may not withhold the information under common law privacy.

You next contend that section 552.108 permits you to withhold the requested information. Section 552.108(a)(1) excepts from disclosure information held by a law enforcement agency

or prosecutor that deals with the detection, investigation, or prosecution of crime if release of the information would interfere with the detection, investigation, or prosecution of crime. You state that the requested information relates to a pending criminal investigation. Accordingly, we find that release of the requested information would interfere with the detection, investigation, or prosecution of crime. See *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). However, section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publ'g Co.* See *id.*¹ Thus, with the exception of the basic front page offense and arrest information, you may withhold the requested information from disclosure based on section 552.108(a)(1). We note that you have the discretion to release all or part of the remaining information that is not otherwise confidential by law. Gov't Code § 552.007. Because our disposition of this matter is dispositive, we need not consider your remaining arguments.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report

¹Generally, basic information is not excepted from disclosure under section 552.103 of the Government Code. Open Records Decision No. 362 (1983).

that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/CHS/cwt

Ref: ID# 133445

Encl. Submitted documents

cc: Mr. Bud Mistry
Comfort Inn
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(w/o enclosures)